

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

IN RE: \$6,709.00 U.S. CURRENCY	:	APPEAL NO. C-140596
SEIZED FROM WALTER V. REEP.	:	TRIAL NO. M-131019
	:	
	:	<i>JUDGMENT ENTRY.</i>

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Appellant Walter V. Reep challenges the trial court's entry overruling Reep's objections and adopting a magistrate's decision ordering the civil forfeiture of \$6,709 of United States currency seized from Reep's home as proceeds derived from drug trafficking.

Police officers executing a search warrant on Reep's home found loaded firearms, 29 growing marijuana plants, six dried plants, additional dried marijuana stored in mason jars, a scale, a safe containing 488 pills of Oxycodone, one plastic bag containing \$3,770 in currency, and a separate envelope containing \$2,939. Reep told police officers that he was "holding" the envelope containing \$2,939 "for a friend." Reep ultimately entered guilty pleas to felony charges of illegal cultivation of marijuana and possession of criminal tools.

The state brought this civil action seeking forfeiture of the cash proceeds of Reep's drug-trafficking activities. *See* R.C. 2981.05. Reep and the investigating officers testified at a forfeiture hearing before a magistrate. Reep claimed that he grew the marijuana for

his personal use, and that he had been prescribed the Oxycodone for pain relief following back surgeries. The officers testified that the marijuana and pills seized far exceeded any amount consistent with personal use. They offered their opinion that from the amounts of contraband, cash, and other items related to the drug trade found in his home, Reep was engaged in drug trafficking. Reep's income tax returns did not support his contention that he maintained his lifestyle solely from his reported income and some gun sales. Thus, the magistrate concluded that Reep had been engaged in drug trafficking and that the seized currency was derived from or acquired through drug sales. The magistrate ordered the seized currency to be forfeited. Reep filed objections and the trial court ultimately overruled the objections and adopted the magistrate's civil forfeiture order.

In a single assignment of error, Reep challenges the manifest weight of the evidence adduced to support the forfeiture order. Under R.C. 2981.05(D), a trial court "shall issue a civil forfeiture order if it determines that the prosecutor has proved by a preponderance of the evidence that the property is subject to forfeiture." Property subject to forfeiture includes "[p]roceeds derived from or acquired through the commission of an offense." R.C. 2981.02(A). An "offense" is "any act or omission that could be charged as a criminal offense * * * whether or not a formal criminal prosecution * * * began at the time the forfeiture is initiated." R.C. 2981.01(B)(10).

An appellate court may not reverse an order of forfeiture where some competent, credible evidence exists in the record going to all the essential elements of the case. *See State v. Baas*, 10th Dist. Franklin No. 13AP-644, 2014-Ohio-1191, ¶ 8 (10th Dist.). "When employing this standard of review, a court has an obligation to presume the findings of the trier of fact are correct. Mere disagreement over the credibility of witnesses or evidence is not sufficient reason to reverse a judgment." *Marmet Drug Task Force v. Paz*, 3d Dist. Marion No. 9-11-60, 2012-Ohio-4882, ¶ 25.

First, we note that since Reep stated that another person was the owner of the \$2,939 found in an envelope, Reep had no standing to contest or appeal its forfeiture. *See State v. Langston*, 6th Dist. Lucas No. L-12-1014, 2012-Ohio-6249, ¶ 9; *see also In re \$449 United States Currency*, 1st Dist. Hamilton No. C-110176, 2012-Ohio-1701, ¶ 24.

Next, there was competent, credible evidence demonstrating that the remaining \$3,770 in currency seized from Reep was derived from drug trafficking. The trier of fact was entitled to reject Reep's defense that the marijuana and Oxycodone pills were only for personal use. The officers' testimony and the amounts of seized contraband amply supported the state's contentions that Reep had been engaged in drug trafficking and that the seized currency, found in the safe containing the pills, was derived from drug sales. *See Dayton Police Dept. v. Thompson*, 2d Dist, Montgomery No. 24790, 2012-Ohio-2660, ¶ 13. The assignment of error is overruled.

Therefore, the trial court's judgment is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., DEWINE and MOCK, JJ.

To the clerk:

Enter upon the journal of the court on July 29, 2015

per order of the court _____.
Presiding Judge